

# **PARTNERSHIP AGREEMENT BETWEEN THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE UNITED STATES DEPARTMENT OF THE INTERIOR, AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGARDING WILDLAND FIRE AND AIR QUALITY**

## **Purpose Statement of Mutual Interest:**

This agreement is hereby entered into by and between the U. S. Department of Agriculture (USDA), the U.S. Department of the Interior (DOI), and the U. S. Environmental Protection Agency (EPA) (subsequently referred to as the Agencies) in order to establish a collaborative framework to address issues pertaining to wildland fire and air quality.

For the purposes of this document, a wildland fire is any non-structural<sup>1</sup> fire that occurs in forests, shrublands, grasslands, or wetlands. There can be two types of wildland fires<sup>2</sup>: wildfires (unplanned) and prescribed fires (intentionally ignited for management purposes). A *wildfire* is any fire started by an unplanned ignition caused by lightning; volcanoes; other acts of nature; unauthorized activity; or accidental, human-caused actions, or a prescribed fire that has developed into a wildfire. A wildfire that predominantly occurs on wildland is a natural event. A *prescribed fire* is any fire intentionally ignited by management actions in accordance with applicable laws, policies, and regulations to meet specific land or resource management objectives.

The Agencies recognize that at the right times and in the right places, wildland fire can play an important ecological role across the globe, benefitting those plant and animal species that depend on fire for habitat restoration, reducing understory vegetation or encroachment, and meeting other ecological requirements. However, at the wrong time and in the wrong place, fire can be catastrophic. Such catastrophic wildfires pose risks to ecosystems, public and firefighter safety, and other societal values. Smoke from both wildfires and prescribed fires on the wildlands can result in negative air quality impacts to public health and welfare, particularly for persons with special susceptibility to air pollution exposures and visitors to national parks and other scenic areas, and impacts to safety and transportation through diminished visibility on roads and aviation corridors.

However, wildfires, particularly those in areas with heavy fuels accumulation due to years of fire suppression, can produce very significant and sometimes catastrophic air pollution episodes. Managing vegetation, fuel types, arrangement and loading, including through the use of prescribed fire, helps to manage these wildfire risks. Prescribed fires also produce smoke, but they also present the opportunity to adjust the timing of fire and some ability to manage the amount of smoke and its path, thereby potentially reducing the overall impacts of wildland fire emissions on public health and welfare.

The Agencies recognize that prescribed fires must also be appropriately managed to reduce their air quality impacts. As part of this management, DOI and USDA consider air quality impacts as they plan or support the use of prescribed fires on both public and private lands in compliance with applicable statutes, regulations and guidance. DOI and USDA promote and employ basic smoke management

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<sup>1</sup> A non-structural fire is a fire that does not involve any residences or buildings.

<sup>2</sup> *Wildland* means an area in which human activity and development is essentially non-existent, except for roads, railroads, power lines, and similar transportation facilities. Structures, if any, are widely scattered.



practices<sup>3</sup> when conducting or supporting prescribed fires so as to minimize smoke impacts on air quality especially near populations, while achieving the intended benefits to the wildland, as well as for public and firefighter safety. State and local agencies also serve a key function with regard to the use of prescribed fire, in some cases through programs for authorizing particular prescribed fires and/or by requiring the use of basic smoke management practices.

The Agencies desire to strengthen their implementation of policies, communications, and programs that relate to the use of prescribed fire to benefit restoration of forests and other wildlands and to protect communities from wildfire impacts, while protecting public health and welfare. The Agencies also seek to reduce the impact of emissions from wildfires, especially catastrophic wildfires, on concentrations of particulate matter, ozone, and other pollutants of concern, while also addressing air quality impacts from prescribed fire. Each Agency recognizes that its respective policies, programs, plans, and activities may significantly affect efforts by the other Agencies to protect public health and welfare and to support air quality improvements and wildland restoration.

By acting together, when possible, the Agencies will help establish the importance of federal leadership in their respective programs to protect public health and welfare through improved air quality and to restore forests and other wildlands where fire plays a critical role. The Agencies also have opportunities to work collaboratively with other federal, tribal, territorial, state, and local governments, non-governmental partners, private property owners, and public stakeholders to manage wildland fire and protect air quality. This collaboration, including technical assistance efforts, can improve public services; accelerate implementation of appropriate prescribed fire programs to improve resource management and protection; provide better understanding of each Agency's goals, objectives, and programs; leverage technical expertise and resources; and help minimize smoke impacts and conflicts.

The Agencies affirm that efforts to collaborate regarding wildland fire and air quality are consistent with both the goals of the statutes implemented by the Agencies and with their rules and policies, including the Clean Air Act (CAA) and the National Cohesive Wildland Fire Management Strategy ("Cohesive Strategy"). The primary goal of the CAA is to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare. The primary goals of the Cohesive Strategy are to restore and maintain fire resilience across landscapes, which foster healthy ecosystems and provide benefits to society across all jurisdictions; prepare resilient communities so they can live with and withstand wildfire without loss of life and property; and safely, effectively, and efficiently respond to wildfires when they occur.

### **Agency Missions:**

- A. The USDA, Natural Resources and Environment (NRE) mission area leads USDA's efforts to ensure our national forests, shrublands, and grasslands and state and private lands are conserved, restored, and made more resilient to climate change, while enhancing our water resources. NRE provides oversight for the USDA Forest Service. The Forest Service mission is to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations. NRE also provides oversight for the Natural Resources Conservation Service (NRCS). NRCS works with private landowners through conservation

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<sup>3</sup> USDA Forest Service and Natural Resources Conservation Service, Basic Smoke Management Practices Tech Note, October 2011, [http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1046311.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1046311.pdf).

planning and assistance designed to benefit the soil, water, air, plants, and animals that result in productive lands and healthy ecosystems.

- B. The EPA oversees implementation of many environmental statutes including the CAA and its implementing regulations. The EPA provides rules, guidance, grants, technical assistance, and training to support states in attaining and maintaining the National Ambient Air Quality Standards and making progress towards the restoration of natural visibility conditions in national parks and other scenic areas. A number of EPA rules and guidance documents, including the Exceptional Events Rule (40 CFR 50.14), the Regional Haze Rule (40 CFR 51.308-309), and associated EPA guidance documents address smoke-related issues that arise in this process. The EPA also conducts and supports leading-edge research that provides science and technology to inform the Agency's decisions.
- C. The DOI mission includes the protection and management of the Nation's natural resources and cultural heritage. In support of these mission areas, the guiding principles and priorities of the DOI Wildland Fire Management program are to provide safe and effective response to wildfires, promote fire-adapted communities, and create fire-resilient landscapes through direct program activities and strong federal, state, tribal, and local collaboration, in line with the Cohesive Strategy. These goals are implemented by DOI's Bureau of Indian Affairs, Bureau of Land Management, U.S. Fish and Wildlife Service, and National Park Service in the preparedness, fuels management, suppression, and resilient landscapes programs. In addition, the Integrated Rangeland Fire Management Strategy includes the coordination and integration of wildland fire management and programs with bureau land and resource management activities.

#### **Authorities:**

The EPA enters into this Agreement pursuant to section 102(b) of the CAA, 42 U.S.C. §7402(b).

The USDA enters into this Agreement pursuant to the Organic Act, 43 U.S.C. 31 et seq., §1879.

The DOI enters into this Agreement pursuant to 16 U.S.C. §1011 and Department of the Interior Manual 112 DM 7, Office of Wildland Fire, and 301 DM 5, Partnership Policy.

#### **Goals:**

USDA, DOI, and the EPA intend to:

- Coordinate and enhance communications among the Agencies and work collaboratively with state, tribal and local governments, private landowners, and other interested parties, where appropriate, on wildland fire, promotion and use of basic smoke management practices, smoke management programs, and air quality protection generally;
- Share information and consult, where appropriate, concerning development of rules and guidance that have direct relation to wildland fires and the potential to affect air quality, or the beneficial use of wildland fire;<sup>4</sup>

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<sup>4</sup> With respect to EPA rules and guidance, this agreement is intended to address only rules and guidance issued under the authority of the CAA or relating to air quality analysis under the National Environmental Policy Act.



- Collaborate on tools and information resources for state, tribal, and local air quality regulators, public health agencies, and other stakeholders to inform management of wildland fire and foster appropriate consistency across regional initiatives;
- Identify opportunities to share available tools and resources to assist stakeholders to protect public health by providing the public information on the effects of smoke from fires, including information on measures to reduce exposure and protect public health from wildfire smoke.
- Continue support of the Wildland Fire Air Quality Response Program which can provide critical services to communities impacted by wildfire smoke and aid in providing information useful to the exceptional event demonstration process; and
- Collaborate with states and other partners on demonstrations of fire-related exceptional events as outlined in EPA's Exceptional Event Rule.

In furtherance of these goals, USDA, DOI, and the EPA intend to designate agency representatives for implementation of this agreement. These representatives will meet, as needed, to develop, implement, track and report progress, and periodically update a work plan. The workplan for Fiscal Years 2017-18 is attached to this document.

### **Limitations:**

This is a voluntary agreement that expresses the good-faith intentions of the Agencies and is not enforceable by any party. This Agreement is not intended to be legally binding nor is it capable of generating any contractual obligations. This Agreement does not create any right or benefit enforceable by anyone. This Agreement does not create any right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity, by any persons who are not party to this agreement, against USDA, DOI or the EPA, their agencies, their officers or employees, or any other person. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.

Each Agency will bear its own costs and retain full responsibility and authority to execute and accomplish its programs. All commitments made by the Agencies in this Agreement are subject to the Agencies' legal authorities, the availability of appropriated funds, and budget priorities. Nothing in this Agreement, in and of itself, obligates either USDA, DOI or the EPA to expend or transfer any appropriations or funds or otherwise incur any financial obligations. Nothing in this document shall be construed as authorizing any of the Agencies to provide any goods or services to the other Agencies or requiring that any of the Agencies enter into any contract, financial assistance agreement, or interagency agreement or otherwise incur a financial obligation.

This Agreement is not legally binding and does not create any contractual obligations. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of USDA, DOI, and the EPA will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by and handled in accordance with appropriate statutory authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

### **Effective Date:**

This Agreement is effective when signed by all three parties and remains in effect for 5 years from the date of execution. It should be reviewed periodically to renew commitments and consider any necessary

changes. This agreement may be extended, modified, or amended at any time but only through the mutual written consent of the parties. Any party may terminate its participation in this Agreement by providing written notice to the other parties at least 30 days in advance of the desired termination date.

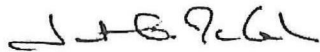
Attachment

United States Department of Agriculture



Robert Bonnie  
Under Secretary of Natural Resources and Environment  
Date: 1/12/17

United States Environmental Protection Agency



Janet McCabe  
Principal Deputy Assistant Administrator for the Office of Air and Radiation  
Date: 1/12/2017

United States Department of the Interior



Elizabeth Klein  
Principal Deputy Assistant Secretary for Policy, Management and Budget  
Date: 1/12/17

## **Attachment**

### **DOI/USDA/EPA Cooperative Workplan for Fiscal Years 17-18**

#### **I. Purpose and intent of workplan.**

This workplan is intended to define the subject areas that will be the focus of the U.S. Department of Agriculture (USDA), the U.S. Department of the Interior (DOI), and the U.S. Environmental Protection Agency (EPA) (subsequently referred to as the Agencies) partnership during Fiscal Years 2017 and 2018. The Agencies' designated representatives will convene groups of agency managers and staff to plan specific mechanisms for communications and collaboration in these subject areas.

#### **II. Actions by the EPA.**

- A. Continued engagement in the development of Clean Air Act (CAA) rules, guidance documents, and outreach materials and programs related to prescribed fire – e.g., implementation of National Ambient Air Quality Standards for ozone and fine particulate matter; regional haze program and exceptional events rule; communication of air quality data, including continuing efforts to improve public awareness and understanding of the Air Quality Index, and development and distribution of public messages on the interpretation of short-term air quality data in areas affected by smoke; and development of data for the wildland fire portion of the National Emission Inventory.
- B. Development of an EPA policy statement on air quality and fires, with input from federal partners, state, local, and tribal air agencies, and interested parties. The document contents may include an explanation of the roles of the EPA, DOI, the U.S. Forest Service and the Natural Resources Conservation Services of USDA, state, local, and tribal air agencies, and other parties in planning prescribed fire programs and the use of basic smoke management practices; an explanation of how the National Environmental Policy Act (NEPA), the CAA, and EPA rules and guidance frame the planning for the use of prescribed fire; and EPA recommendations.

#### **III. Actions by USDA and DOI.**

- A. Address air quality goals in NEPA reviews of land management plans.
- B. Apply appropriate basic smoke management practices to all prescribed burns, as well as smoke management programs in approved state implementation plans.
- C. Promote appropriate basic smoke management practices for all prescribed burns.

#### **IV. National template for detail of staff from the EPA to USDA for air quality support on wildfires and prescribed burns (Air Resource Advisors as part of the Wildland Fire Air Quality Response Program).**

#### **V. Additional priority work areas.**

- A. Cooperative research and encouragement for air agencies to use best science for monitoring smoke impacts and predicting fire emissions and air quality impacts.
- B. Regular EPA participation in national fire and smoke discussion forums, as appropriate.
- C. Regular USDA and DOI participation in national air discussion forums, as appropriate.